[15]

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

In compliance with a resolution of the House, of the 6th instant,

THE

PROCEEDINGS OF THE COMMISSIONER

APPOINTED

UNDER THE ACT TO AUTHORIZE

THE

Payment for Property lost, captured, or destroyed by the enemy, while in the military service of the United States.

December 23, 1816.

Read and referred to the committee nppointed on the 6th instant, to inquire into the decisions of Richard Bland Lee.

WASHINGTON:

PRINTED BY WILLIAM A. DAVIS.

1816.

OYL9365 BOX 52

Avery Architectural and Fine Arts Library
Gift of Seymour B. Durst Old York Library

To the House of Representatives
of the United States :

In compliance with the resolution of the House of Representatives, of the 6th instant, I transmit to them the proceedings of the Commissioner appointed under the "act to authorize the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes," as reported by the Commissioner to the Department of War.

JAMES MADISON.

December 21, 1816.

F
591
W46

The Acting Secretary of War, has the honour to submit to the President the report made by the Commissioner of claims, relative to his proceedings under the act "authorizing the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes."

GEO. GRAHAM.

December 20th, 1816.

REPORT.

Office of Claims, &c.
Washington, Dec. 17th, 1816.

The Commissioner appointed pursuant to the law entitled, "An act to authorize the payment for property lost, captured, or destroyed, by the enemy, while in the military service of the United States, and for other purposes," in obedience to a letter from the Acting Secretary of War, enclosing a resolution, of the House of Representatives, passed on the sixth instant, in the following words, "Resolved, That the President of the United States, be, and he is hereby requested to lay before this House, the proceedings of the commissioner appointed under the act passed at the last session entitled, 'An act to authorize the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes"

RESPECTFULLY REPORTS.....

That as soon as he received from the President, a notification of his appointment, he proceeded to the execution of the initiative duties required from him, by preparing such rules and regulations, relative to the mode of presenting claims, and taking and authenticating evidence as appeared to him to be necessary; which rules and regulations, having been approved by the President, were

published in the form of notices, as enjoined by the said act, on the third and twenty-fourth of June last.

In forming these rules and regulations, the commissioner endeavoured to enter into the views of the Legislature, by giving such an interpretation to the provisions of the said act, as might secure substantial justice to the sufferers intended to be relieved, and at the same time, guard against fraud and imposition. On this part of the subject he begs leave to refer to a copy of the said notices, in paper marked A.

The multifarious losses which it appears to have been the intention of the Legislature to provide for, required no little attention to separate and define. The first section of the act being confined to, "volunteers or drafted militiamen, whether of cavalry, mounted riflemen, or infantry," and limited to the payment for horses only, admitted of an easy interpretation; as did also the second section confined to "cavalry, mounted militia, or volunteers," which the commissioner, construed also solely to apply to persons, belonging to corps, not in the regular service though the word "cavalry," used in contra distinction to "mounted militia or volunteers," may at first view seem to indicate a different meaning, and to be intended to extend also to cavalry in the regular service. This section too relates solely to the loss of horses.

The third section taking a larger scope, and involving a variety of cases he found it more difficult to satisfy himself as to its true import. The words of this section are "that any person, who in the late war aforesaid, has sustained damage, by the loss, capture, or destruction, by an enemy, of any horse, mule, ox, wagon, cart, boat, sleigh,

or harness, while such property was in the military service of the United States, either by impressment or contract, except in cases, where the risk to which the property would be exposed, was agreed to be incurred by the owner, if it shall appear that such loss. capture, or destruction was without any fault or negligence on the part of the owner, and any person who, during the time aforesaid, has sustained damage by the death of any such horse, mule, or ox, in consequence of failure on the part of the United States, to furnish the same with sufficient forage while in the service aforesaid, shall be allowed and paid the value thereof."

The commissioner was at first disposed to consider the first clause of this section as providing only for such injuries as proceeded from the acts of an enemy. But inasmuch as damage by an enemy, must almost universally happen in two ways, either "by capture or destruction," and as there were many other losses sustained by our citizens, "without any fault or negligence on the part of the owner," such for instance as wagons and teams, lost by being forced to attempt to pass streams not fordable, contrary to the opinion of the owners, by the compulsive orders of military commanders; on further reflection he was inclined to give this clause a more extended meaning and to consider the word "loss" as intended to be contra distinguished from the words "capture or destruction by an enemy," and to denote such injuries as might have happened in a manner other than "by the capture and destruction of an enemy," but "without any fault or negligence on the part of the owner." But the opinion of the executive government, being in favour of adhering to the first interpretation, the commissioner has

felt it his duty to conform his adjudications thereto. See paper marked B.

The two first sections of the act being strictly confined to military corps, other than regulars, the change of expression in the third section in which the broad words "any person" are used, seemed to denote that its provisions were intended to apply to every description of citizens, whether they belonged to the regular army, or to the militia, or volunteers; and inasmuch as the militia and volunteers, while in actual service received the pay and emoluments of regulars, the commissioner ultimately inclined to the opinion that losses happening under similar circumstances to persons engaged in either service were intended to be provided for. The word "contract" appeared to him to be of extensive import; and in every case as well in the regular, as in the militia or volunteer service, in which the rank of the officer required that he should furnish himself with a horse, that by accepting of his appointment he entered "into a *contract*" with the government to do so; and having done so, provided such horse died in consequence of a failure on the part of government to furnish sufficient forage, or was taken by the enemy; that a regular officer ought to be paid for his horse in the same manner as if he had belonged to the militia, or volunteer corps. But on this point the executive government having considered the regular officer as excluded from this benefit, the commissioner has felt it also his duty to adapt his adjudications to that opinion. See paper marked B.

The fourth section admitted of an easy interpretation, applying solely to the loss of "arms and military accoutrements" of volunteers or drafted militiamen, who had furnished themselves with the same.

The fifth section is in these words, "that where any property has been impressed or taken by public authority, for the use or subsistence of the army during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof, *deducting therefrom* the amount which has been paid for the use and risk of the same, while in the service aforesaid."

This section has been construed to apply to all property real personal or mixed, which has been impressed or taken by public authority, without the *consent* of the owner. See papers marked A. and B.

The ninth section of the law providing for losses of greater magnitude, and necessarily involving the payment of large sums of money, the commissioner endeavoured to avail himself of every assistance which appeared to be within his reach, to enable him to give to it a fair, a reasonable, and a just interpretation. With this view, erroneously supposing that he had a right to do so, he addressed to the attorney-general, the great law officer of the government the letter marked C. In reply to which he received the answer marked D.

Having been disappointed in obtaining this important aid, the commissioner regarding the office which he filled, as a kind of appendage to the Department of War, addressed to the Secretary thereof, the letter marked E. enclosing copies of his correspondence with the attorney-general.

From this officer the commissioner indulged the hope, that he should receive such an exposition as would enable him to fulfil the views of the Legislature, by affording a just redress to the sufferers intended to be relieved. Nor was this expectation

disappointed when the Secretary after due consideration, and no doubt consulting the best opinions, addressed to him on the seventh of September, a note in the following words:

"Department of War,
September 7th, 1816.

"Sir,

The President has been pleased to direct, that the occupation of houses and buildings by the military force of the United States, is embraced by the ninth section of the act "to authorize the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes," and that compensation shall be allowed for damage sustained in consequence of such occupancy, in the same manner as if such houses and buildings had been occupied as a military deposite, under the authority of an officer or agent of the United States.

I have the honour to be,
Your most obedient, and,
Very humble Servant,
(Signed) WILLIAM H. CRAWFORD.

Richard Bland Lee, Esq. Commissioner for settling claims for property lost, &c."

The commissioner considered this letter as sanctioning his own interpretation of the ninth section of the said law; and it was not till after he received this note, that he felt himself authorized to give to it a practical construction by a formal adjudication.

On the twenty-first of October, the commissioner received from the Department of War, as the organ of the executive government, a more general interpretation of the law in the following words:

"War Department,
21st October, 1816.

Pursuant to the 11th section of the act making provision for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes the President has been pleased to direct.

That the first and second sections of the said act, do not embrace the case of officers of the regular army, and that the property which a regular officer may have taken with him in the service, or which he may have been required by law to keep, is not comprehended by the terms "impressed or by contract," used in the third section.

That the provisions of the third section extend only to losses resulting from the acts of the enemy, or from the failure of the government to supply the necessary forage.

That the ninth section of the act extends only to cases of destruction of property by the enemy, which are justifiable by the laws of civilized warfare. The occupation of houses or buildings as places of military deposite, or by an armed force, must be continued up to the time of the destruction That the occupation of houses or buildings by an armed force for a night upon a march, is not within the meaning of the said section, unless in the immediate presence of an enemy. That no compensation by way of interest, rent or damage, can be allowed, under the act, for the time which elapses between the destruction of the property and the decision of the commissioner.

That the act does not extend to the case of consequential injury resulting from the destruction of houses or buildings under the ninth section.

No compensation can, therefore, be allowed for

the destruction of houses or buildings not occupied as a military deposite or by a military force.

That in all cases of doubt, or of great importance, the commissioner shall submit the evidence to the executive before any decision is made.

(Signed) WILLIAM H. CRAWFORD.

Richard Bland Lee, esq.
Commissioner, &c. &c.

The commissioner will close this subject, by referring to his correspondence with the Department of War, marked F.

The number of adjudications made and entered by him since the first of July, under special acts, and under the general law of the ninth of April, last, amount to 850; the total sum awarded, to $\$229{,}693\frac{15}{100}$.

The proofs, in every case decided by the commissioner, are put into a trunk, the key of which will be delivered to the acting Secretary of War; which papers are so sent in conformity to the direction of the President, and pursuant to a letter from the acting Secretary of War, bearing date on the sixteenth instant; a copy of which letter is referred to in paper marked G.

In the office, a record of all the adjudications was made, and the evidence in each particular claim was filed with it. The office was at all times open, and free liberty allowed to every citizen to examine either the adjudications or the evidence.

All which is most respectfully submitted,

RICHARD BLAND LEE,
Commissioner, &c.

P. S. The commissioner thinks proper to send a copy of his letter to the Secretary of the Navy, in the case of William O'Neale and Robert Taylor, dated on the second of October, last, marked H.

He also begs leave to refer to certain acts, passed at the last session of Congress; many, if not all, of which he considered as cotemporaneous expositions of the law which created this office.

An act for the relief of William Flood.

An act for the relief of the Supervisors of the county of Clinton, in the State of New-York.

An act for the relief of Joseph Wilson.

An act for the relief of Asher Palmer.

An act authorizing the payment for the court-house of Hamilton, in the State of Ohio.

An act for the relief of the President and Directors of the Washington Bridge Company.

An act for the relief of Charles Todd.

An act for the relief of Paul D. Butler.

An act for the relief of Charles Ross and Samuel Breck, surviving executors of John Ross, deceased.

[A.]

Office of Claims for property lost, captured, or destroyed by the enemy whilst in the military service of the United States, during the late war.

WASHINGTON, June 3d, 1816.

Notice is hereby given, pursuant to the act of the United States, passed the 9th of April last, entitled, "An act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," that all claims provided for by the said act, must be presented at this office, on or before the ninth day of April, in the year 1818; as if not presented within that period, they cannot be received, examined and decided on at this office.

First class of cases.

The claims provided for by the said act are, First, "Any volunteer or drafted militiaman, whether of cavalry, mounted riflemen, or infantry, who, in the late war between the United States and Great Britain, has sustained damage by the loss of any horse which was killed in battle, or which has died in consequence of a wound therein received, or in consequence of failure on the part of the United States to furnish such horse with sufficient forage while in the service of the United States, shall be allowed and paid the value of such

horse." This provision comprehends three descriptions of cases:

1st. A horse killed in battle.

2d. A horse dying in consequence of a wound received in battle.

3d. A horse dying in consequence of not being furnished with sufficient forage by the United States.

To substantiate a claim of either description—

1st. The order of the government authorizing the employment of the corps to which the original claimant belonged, or the subsequent acceptance of such corps, or approbation of its employment must be produced.

2d. The certificate of the officer, or surviving officer, commanding the claimant at the time of the accident on which the claim is founded, which certificate, if not given while the officer was in the service of the United States, must be sworn to; and in every case it must, if practicable, state the then value of the horse so killed or dying. Before any other evidence will be received, the claimant must make oath that it is not in his power to procure that which is above specified; and that the evidence which he shall produce in lieu thereof, is the best which he is able to obtain. In every case the evidence must be on oath, and the value of the horse so killed or dying, ascertained. All evidence offered must be taken and authenticated in the manner hereinafter directed, and in all these cases the claimant must declare on oath, that he has not received another horse from any officer or agent of the government in lieu of the one lost.

Second clases of cases.

" Any person, whether of cavalry or mounted riflemen, or volunteers, who, in the late war aforesaid, has sustained damage by the loss of a horse, in consequence of the owner thereof being dismounted, or separated and detached from the same, by order of the commanding officer, or in consequence of the rider being killed or wounded in battle, shall be allowed and paid the value of such horse at the time he was received into the public service." This class comprehends two descriptions of cases :

1st. When the owner has been dismounted, or separated from, and detached from such horse by order of the commanding officer.

2nd. When the rider has been killed or wounded in battle, and the horse lost in consequence thereof.

The same evidence, in all respects, which is required in the first class of cases will be required in this.

Third class of cases.

" Any person who, in the late war aforesaid, has sustained damage by the loss, capture or destruction by an enemy, of any horse, mule, or ox, wagon, cart, boat, sleigh, or harness, while such property was employed in the military service of the United States, either by impressment or by contract; except in cases where the risk to which the property would be exposed, was agreed to be incurred by the owner, if it shall appear that such loss, capture, or destruction was without any fault, or negligence " of the owner; and any person during the time aforesaid, who has sustained damage

by the death of such horse, mule, or ox, in consequence of failure on the part of the United States, to furnish sufficient forage while in the service aforesaid, shall be allowed and paid the value thereof." This class comprehends two cases:

1st. The loss or destruction of property by an enemy, taken by impressment, or engaged by contract, in the military service of the United States; being either a horse, a mule, an ox, wagon, cart, boat, sleigh, or harness, excepting articles for which the owners had agreed to run all risks, or which were lost or destroyed by the fault or negligence of the owners.

2nd. When a horse, mule, or ox, so taken or employed, has died from the failure of the United States to furnish sufficient forage.

In the first of these cases, the claimant must produce the certificate of the officer or agent of the United States who impressed, or contracted for the property abovementioned, and of the officer, or surviving officer, under whose immediate command it was taken or destroyed by an enemy. Such certificates, if such officers or agents at the time of giving them, be not in the military service of the United States, must be sworn to, and must positively state that the property was not lost, or destroyed through the fault, or negligence of the owner, and that the owner did not agree to run all risks. Furthermore, the usual hire of the articles so impressed or contracted for, in the country in which they were employed must be stated.

In the second case, the certificate of the officer, or agent, of the United States, under whose command such horse, mule, or ox, was employed at the time of his death, must be produced.

Before any other evidence will be received, the claimant must make oath that it is not in his power to produce that which is above specified; and, further, that the evidence which he offers, in lieu thereof, is the best which he is able to obtain. In every case the evidence must state, distinctly, the time, place, and manner of the loss, and the value thereof.

Fourth class of cases.

"Any person who, during the late war, has acted in the military service of the United States as a volunteer, or drafted militia-man, and who has furnished himself with arms, or accoutrements, and has sustained loss by the capture or destruction of them, without any fault or negligence on his part, shall be allowed and paid the value thereof.

This class comprehends two cases;

1st. The loss of such arms or accoutrements by the enemy.

2d. The loss of the same articles in any other way, without the fault or negligence of the owner.

This provision does not include the clothing of soldiers, or the clothing and arms of officers who, in all services, furnish at their own risk their own. The same evidence, in all respects, is required in this as in the first class, and, moreover, that the loss did not happen from the fault or negligence of the owner.

Fifth class of cases.

"When any property has been impressed or taken, by public authority, for the use or subsistence of the army during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof; deducting therefrom the amount which has been paid, or may be claimed, for the use and risk of the same while in the service aforesaid."

This provision relates to every species of property taken or impressed for the use and subsistence of the army, not comprehended in any of the preceding classes, and which shall have been in any manner destroyed, lost or consumed by the army, including in its scope all kinds of provisions, forage, fuel, articles for clothing, blankets, arms and ammunition; in fact, every thing for the use and equipment of an army.

In all these cases, the certificates of the officers or agents of the United States taking or impressing any of the aforesaid articles, authenticated by the officer commanding the corps for whose use they were taken or impressed—and, furthermore, of the officers and agents under whose command the same were destroyed, lost, or consumed, specifying the value of the articles so taken or impressed, and destroyed, lost, or consumed, and if any payment has been made for the use of the same, the amount of such payment; and if no payment has been made, the certificate must state that none has been made.

Before any other evidence will be received, the claimant must make oath, that it is not in his power to procure that which is above specified; and, further, that the evidence which he offers in lieu thereof, is the best which he is able to obtain.

Under this provision, no claim can be admitted for any article which has not been taken by the orders of the commandant of the corps for whose use it may be stated to have been taken. For any taking, not so authorized, the party's redress is against the person committing it.

Sixth and last class of cases.

"When any person, during the late war, has sustained damage by the destruction of his house or building by the enemy, while the same was occupied as a military deposite, under the authority of an officer or agent of the United States, he shall be allowed or paid the amount of such damage; provided, it shall appear that such occupation was the cause of such destruction."

In this case, the certificate of the officer or agent of the United States, under whose authority any such house or building was occupied, must be furnished. Before any other evidence as to this fact will be received, the claimant must make oath, that it is not in his power to procure such certificate, and that the evidence which he shall offer in lieu thereof, is the best which he is able to obtain.

Furthermore, in all the cases submitted to this office, every claim must be accompanied by a statement, on oath, by every claimant, of all sums which he may have received, on account of such claim, from any officer, agent, or department of the government of the United States; and where he has received nothing, that fact, also, must be stated, on oath, by him.

It will be particularly noted by claimants, that the preceding rules of evidence generally, and more especially, apply to claims which shall not exceed in amount two hundred dollars, and that in

all cases in which the claims in amount shall exceed two hundred dollars, a special commissioner will be employed to take testimony; but in these cases, as far as it shall be practicable, the same rules of evidence will be observed.

In all cases in which the officers or agents of the United States shall have taken or impressed property for the military service of the United States, which property, so taken or impressed, shall have been paid for by them, out of their private funds, or the value thereof recovered from them in due course of law, such officers or agents are entitled to the same remuneration to which the original owners of the property would be entitled, if such payment or recovery had not been made, and can settle their claims at this office, producing authentic vouchers for such payment, or recovery. Nor will any original claimants be paid through this office, till they release all claims against such officers or agents of the United States, on account of such taking or impressment.

In every case, no claim will be paid but to the persons originally entitled to receive the same; or in case of his death, to his legal representative; or, in either event, attorney, duly appointed. When attorneys shall be employed, it is recommended to the parties interested, to have their powers executed in due form.

All evidence offered must be sworn to, except the certificates of officers, who, at the time of giving them, shall be in the military service of the United States, before some judge of the United States, or of the states, or Territories of the United States, or mayor or chief magistrate of any city, town, or borough, within the same, or a justice of the peace of any State or Territory of the United States duly authorized to administer oaths, of which authority.

proof must be furnished, either by a certificate under the seal of any State or Territory, or the clerk or prothonotary of any court within the same. But the seal of any city, town, or borough, or the attestation of any judge of the United States will require no further authentication.

An office is opened on Capitol Hill, in the City of Washington, in the building occupied by Congress, during its last session, for the reception of the foregoing claims.

The printers in the United States or Territories thereof, who are employed to print the laws of the United States, are requested to publish this notice for eight weeks successively, once a week and send their bills to this office for payment.

All persons who have business with this office, are requested to address their letters to the subscriber as commissioner, which will be transmitted free of postage.

RICHARD BLAND LEE,
Commissioner of Claims, &c.

Office of Claims for property lost, captured, or destroyed by the enemy whilst in the military service of the United States, during the late war.

Washington, June 24, 1816.

[Explanatory supplemental rule.]

In all the cases comprised in the notice from this office of the 3d instant, the following supplemental regulation must be observed by every claimant: viz.

Whenever the evidence, on oath, of any officer of the late army of the United States, shall be taken, or the certificate of any officer, in service at the time of giving it, shall be obtained, such evidence or such certificate must expressly state, whether any certificate or other voucher in relation to the claim in question, has been given within the knowledge of such officer. The claimant must also declare, on oath, that he has never received from any person any such certificate or voucher, or, if received, must state the cause of its non-production. In every case the name of the officer furnishing such certificate or voucher, together with its date, as near as can be ascertained, will also be required.

RICHARD BLAND LEE,

Commissioner of Claims, &c.

[B]

Copy of a letter from the Hon. William H. Crawford, Secretary of War, to the Commissioner.

War Department,
October 21st, 1816.

Pursuant to the 11th section of the act "making provision for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes," the President has been pleased to direct:

That the first and second sections of the said act do not embrace the case of officers of the regular army; and that the property which a regular officer may have taken with him in the service, or which he may have been required by law to keep, is not comprehended by the terms "impressed, or by contract," used in the third section:

That the provisions of the 3d section extend only to losses resulting from the acts of the enemy, or from the failure of the government to supply the necessary forage:

That the 9th section of the act extends only to cases of destruction of property by the enemy, which are justifiable by the laws of civilized warfare. The occupation of houses or buildings as places of military deposite, or by an armed force, must be continued up to the time of the destruction:

That the occupation of houses or buildings by an armed force, for a night, upon a march, is not within the meaning of the said section, unless in the immediate presence of an enemy:

That no compensation, by way of interest, rent, or damage can be allowed, under the act, for the

time which elapses between the destruction of the property and the decision of the commissioner:

That the act does not extend to the case of consequential injury resulting from the destruction of houses or buildings under the ninth section. No compensation can, therefore, be allowed for the destruction of houses or buildings not occupied as a military deposite, or by a military force:

That in all cases of doubt, or of great importance, the commissioner shall submit the evidence to the executive before any decision is made.

(Signed) WILLIAM H. CRAWFORD.

Richard Bland Lee, esq.
Commissioner, &c. &c.

[C.]

Office of Claims for property lost, &c.
Washington, July 1, 1816.

SIR,

Several claims have been submitted to me as provided for by the 9th section of the law of the United States, entitled "An act to authorize the payment for property lost, captured, or destroyed while in the military service of the United States, and for other purposes." The words of the law are, "where any person, during the late war, has sustained damage by the destruction of his or her house or building, by the enemy, while the same was occupied as a military deposite under the au-

thority of an officer or agent of the United States, he shall be allowed and paid the amount of such damage: *Provided*, It shall appear that such occupation was the cause of its destruction."

I find a difficulty in determining what shall be deemed "a military deposite" in the meaning of the law.

1. Must the term be limited to the storing of munitions of war?

2. Can it be extended to a military occupation, however transient, as quarters for soldiers for a month, a week, a day, or a less time?

3. In a day of battle, if soldiers retire to a house to use it as a fortress from which to annoy the enemy, without the order of an officer, will such occupation be within the meaning of the law?

4. In a day of battle, if soldiers occupy a house for such purposes by order of an officer, however inferior may be his grade, will such occupation be within the meaning of the law? Your official answers to the foregoing questions will very much oblige,

Your obedient servant,

RICHARD BLAND LEE.

The Hon. Richard Rush,
Attorney-General.

[D.]

Copy of a letter from the honourable Richard Rush, Attorney-General, to the Commissioner.

WASHINGTON, July 3, 1816.

SIR,

I have had the honour to receive your letter dated the first of this month.

The 35th section of the act of Congress of the 24th of September, 1789, is the only law marking down the public duties to be performed by the attorney-general; and I have never felt myself at liberty to assume the responsibility of official opinions not enjoined by the terms or scope of that law.

I beg you, sir, to be assured that nothing but an unwillingness to depart from this rule, (which has, also, I believe, governed those who have heretofore been attorney-general,) leads me to decline giving answers to the questions which your letter has propounded for my consideration.

With great respect,

I am your most

Obedient servant,

(Signed) RICHARD RUSH.

R. B. Lee, esquire.

[E.]

Office of Claims for property lost, &c.
Washington, July 5th, 1815.

SIR,

I enclose to you a copy of my letter of the 1st inst. to the honourable Attorney General, and a copy of his reply of the 3d. Inasmuch as he declines answering the questions propounded to him, I must request from you such opinions and instructions on the subject as you may deem pertinent.

I have the honour to be,

With the highest consideration,

Your most obedient servant,

RICHARD BLAND LEE.

The hon. Secretary of War.

[F.]

Office of Claims for property lost, &c.
Washington, October 28, 1816.

SIR,

As I find, from conversation with Mr. Graham, chief clerk of the War Department, that a doubt is entertained by him, whether the claims of the inhabitants of Buffalo, whose houses were destroyed by the enemy on the 30th of December, 1813, and on the 1st of January, 1814, came within the provisions of the ninth section of the

law of the 9th of April, last, under which I act, I deem it proper to submit to the consideration of the President the testimony in the case of Gilman Fulsom, before I definitively decide. This case does not rest on such strong evidence as the few in which I have made awards. From my conversation with Mr. Graham, the principal objection to the Buffalo claims is derived, as I understand, from the official declaration of the enemy to our government, that the village of Buffalo was burnt by way of retaliation. I will observe, that I have not been furnished with this information in an official form, or received any intimation from the executive government, how far it must be regarded in opposition to the testimony of our own citizens, taken in pursuance of the directions of the aforesaid law of the ninth of April, last.

It is certain that this office has not the power of going out of the limits of the United States to take testimony; and the most natural place to obtain the best testimony which the nature of the case may admit of, appeared to be where destruction was made. In selecting persons to take this testimony, I have sought out such as stood high in the confidence of the government of New-York, and who held respectable judicial stations. I have endeavoured, in every instance, both in the regulations concerning the mode of taking and authenticating the testimony, and examining that testimoney when furnished, to fulfil the injunction of the law, by "paying a due respect as well to the claims of individual justice as to the interest of the United States," which, in my opinion, will be more certainly promoted and permanently established by acts of justice and retribution to its citizens who have innocently suffered in a war waged for the common benefit, than consigning

them to undeserved misery and want, in imitation of governments which are created and supported by military force, and do not rest, like ours, on the basis of justice and equality of rights.

I am very sensible that in the adjudications which I am bound to make, it will be extremely difficult always to hit precisely the middle course of rendering a reasonable justice to the claimant, without, in any degree, trenching upon the interest of the nation But here humanity, considering the relative situation of the parties, will excuse (if any should be discoverd) a bearing to the side of poverty and wretchedness. Enclosed I send, also, a newspaper, which exhibits the course which the British government has pursued relative to the losses sustained by their Canadian subjects during the late war, as well from the acts of their enemy as their own army.

I shall be happy to receive from the President his instructions relative to the case herewith sent, which I shall consider it my duty to obey. Till then I shall suspend all adjudications under the ninth section of the law. I am confidently impressed that the awards in all the cases which I have hitherto decided, relative to buildings destroyed by the enemy during the late war, will be found in conformity to the interpretation and instructions which I have received from him, unless the Buffalo cases shall be excluded by the official declaration of the enemy.

I have the honour to be, with great consideration and respect,

Your obedient servant,

RICHARD BLAND LEE.

The Hon. Secretary of War.

[F.]

Office of Claims for the property lost. &c.
Washington, November 1st, 1816.

SIR,

I have received your note of to-day, and beg you to inform the President, that I feel it my duty to conform strictly to any interpretation which he may please to give to the law of the 9th of April last, to authorize "the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes," and that no decision shall be made on any case depending on the *ninth* section of the said law, till I receive his further instructions.

I have the honour to be,
With very great respect and consideration,
Your most obedient servant,
RICHARD BLAND LEE.

Hon. George Graham,
Acting Secretary of War.

[F.]

Copy of a letter from the honourable George Graham, to the Commissioner.

War Department,
November 1st, 1816.

Sir,

Your communications dated the 25th and 28th of last month, have been submitted to the President, who has instructed me to say that the third section of the act, "to authorize the payment for property lost, captured, or destroyed," &c. will not justify the payment of claims for partial injuries to oxen or horses.

I am also instructed by the President, to request that you will suspend all *decisions* under the ninth section of the above-mentioned act, until further advised.

I have the honour to be,
With great respect,
Your most obedient servant,

(Signed) GEORGE GRAHAM.

Copy of a letter from the Hon. William H. Crawford to the Commissioner.

Department of War,
September 7th, 1816.

SIR,

The President has been pleased to direct that the occupation of houses and buildings, by the military force of the United States, is embraced by the ninth section of the act "to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes;" and that compensation shall be allowed for damage sustained in consequence of such occupancy, in the same manner as if such houses and buildings had been occupied as a military deposite, under the authority of an officer or agent of the United States.

I have the honour to be
Your most obedient, and
Very humble servant,

(Signed) WILLIAM H. CRAWFORD.

Richard Bland Lee, esq.
Commissioner for settling claims for property lost, &c.

[G.]

Copy of a letter from the Hon. George Graham, Secretary of War.

Department of War,
December 16, 1816

To the Commissioner.

SIR,

I am directed by the President, to inform you that under existing circumstances, it is thought proper that no final decision be made on any case now depending, or that may be exhibited under the act "to authorize the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes," passed the 9th of April, 1816. You will, however, proceed to prepare and arrange all such cases for decision, when it shall be deemed proper.

I have to request, also, that you immediately prepare and furnish the report called for by the resolution of the House of Representatives, with which you have been furnished; and in order to avoid the delay of making copies, the original proceedings may be furnished.

I have the honour to be,
With great respect,
Your obedient servant,

(Signed) GEORGE GRAHAM.

Richard Bland Lee, Esq.
Commissioner of Claims, &c.

[H.]

Office of Claims for property lost, &c.

Washington, October 2d, 1816.

Sir,

Having adjudged to Messrs. William O'Neale, and Robert Taylor, the owners of the schooner Islet, sunk in the Patuxent, by order of commodore Barney, during the late war, while in the service of the United States, the value of the said vessel, I consider it my duty to apprise you of the circumstance, as from this date the said vessel, in her present condition, must be regarded as the property of the nation.

Mr. O'Neale, informs me that he has been informed that there is in her hold from twenty to thirty tons of cannon ball, and one or two cannon. It will rest with you to decide whether any attempt should be made to save the vessel, and the articles in her hold.

I am, with great consideration
And respect, your most
Obedient servant,

(Signed) RICHARD BLAND LEE.

Honourable Benjamin Crowninshield,
Secretary of the Navy.

True copy from the letter book, taken this 17th of December, 1816.

PERRIN WILLIS, Clerk.

AVERY
CLASSICS